



# CENTER FOR FAMILY POLICY AND PRACTICE

## POLICY BRIEFING

July 2016 — Vol. 16 — No. 3

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#### **Welfare Funding Continues to Decline and Shift to Unexpected Programs**

Many of the restrictions on states' use of welfare funds were lifted with passage of legislation creating TANF in 1995, which allocated the funds in a block grant that allowed states to determine how to spend them to achieve any of the four

purposes of TANF. Two of the four purposes are “to prevent and reduce the incidence of out-of-wedlock pregnancies,” and to “encourage the formation and maintenance of two-parent families.” Since 1995, states have opted to fund a wide range of activities using the TANF block grant. As long as there is a claim to be made that an activity or program is directed toward one of the purposes, almost anything is allowed. This has led to a number of developments that deprive poor families of financial assistance, some of which are described in report from NPR and Slate.com, described below.

- There has been a significant drop in spending on traditional welfare benefits for low-income families, even as total funding for TANF has been frozen since 1996. Just one-quarter of TANF funding is now used to provide cash assistance to families, according to the CBPP, and less than that is being spent on child care and “work supports” to help families find jobs. The rest is spent on activities that support marriage promotion and out-of-wedlock pregnancy prevention, with little oversight.
- Less than 23 percent of families living below the poverty line (\$23,850 per year for a family of four) received cash welfare benefits in 2014. In 1996, 68% of such families in poverty received benefits. In 2012, the income limit for TANF eligibility in 28 states was less than half of poverty-level earnings.
- Some of the programs states use TANF funds to support include the following.

- In Oklahoma, marriage promotion and the prevention of out-of-wedlock pregnancy receive 5 percent of TANF funds, while just 9 percent goes to cash assistance to families. Just 7 of 100 families living below the poverty line in Oklahoma currently receive cash assistance. One marriage promotion company, “Forever 4Real,” has received \$70 million in TANF funds since 2001, to hold relationship classes and, as the report puts it, “produce advertisements in which middle class couples make dinner together and cuddle on the couch.”
- South Carolina spends just 16 percent on core welfare reform activities and nearly 77 percent in a minimally defined “other” category of activity.
- Michigan spends the greatest portion of its TANF funds on out-of-wedlock pregnancy prevention, about 33 percent of the \$700 million it receives from the federal government annually. Welfare spending includes a program that gives private college scholarships to students from households with annual incomes of up to and even more than \$250,000.
- In Pennsylvania, welfare dollars fund “crisis pregnancy centers” that counsel women against abortions.

TANF cash benefits and participation rates vary widely by state. An Open Minds briefing reports that in the lowest paying states of Mississippi, Arkansas, North Dakota, Idaho, and Wyoming, monthly per capita benefits are just \$3.74 (Arkansas) to \$6.26 (Wyoming), compared to the highest per capita benefit of \$88.49 in New York. Just .3 to .4 percent of all households in Texas, Louisiana, Indiana, Idaho and Wyoming receive TANF cash benefits. The highest rate of receipt is 4.3% in California.

Most of this information is contained in a report from NPR and Slate.com, available at [http://www.slate.com/articles/news\\_and\\_politics/moneybox/2016/06/welfare\\_money\\_of\\_ten\\_isn\\_t\\_spent\\_on\\_welfare.html](http://www.slate.com/articles/news_and_politics/moneybox/2016/06/welfare_money_of_ten_isn_t_spent_on_welfare.html)

The Open Minds briefing is available at <https://www.openminds.com/market-intelligence/executive-briefings/state-tanf-programs-spend-cash-assistance/>

**Child Support Debt a Key Barrier for Released Prisoners and Their Families**

A recent study analyzed child support debt and social service needs of US prisoners after their release. Despite the

recent attention being paid to the impact of criminal justice-related debt that results from charges for such things as court costs, confinement and probation, the study’s authors note that surprisingly little attention has focused on the increasing debt fathers accrue for child support obligations while in prison. The prevalence of child support debt, service needs and receipt of employment-related services were examined using longitudinal data from the Serious and Violent Offender Reentry Initiative (SVORI), a reentry program in effect in 12 states.

The analysis found the following:

- A substantial number of released state prisoners had wide-ranging legal and financial needs due to having active child support orders. Of the respondents to the study's survey, 92 percent of those with a formal order had child support arrears. Fifty-eight percent owed \$5,000 or more in child support.
- Only 27 percent of the overall sample had their child support orders modified while they were in prison. In Ohio, none had their order modified.
- Forty-two percent of incarcerated respondents with child support orders indicated that they had primary care responsibilities for at least one child before their incarceration.

The authors note that services to support noncustodial fathers should begin outside the correction system, so that child support orders do not become an overwhelming barrier in the event of incarceration. They encourage policymakers to prioritize social supports for returning prisoners and their families and to integrate data across systems to identify needs in order to build healthier communities.

The article, *Re-entry for Prisoners with Child Support Debt: Community Reintegration Among Prisoners With Child Support Obligations: An Examination of Debt, Needs, and Service Receipt*, by Caterina G. Roman and Nathan W. Link, can be found at <http://cjp.sagepub.com/content/early/2015/10/19/0887403415611460.abstract>, but with limited access.

An article summary can be found at:

<http://blogs.lse.ac.uk/usappblog/2016/04/20/providing-assistance-to-incarcerated-fathers-who-have-child-support-obligations-can-help-their-post-release-community-reintegration/>

**Federal FY 2017 Budget Request  
Includes Provisions to Encourage  
States to Pass Child Support  
Payments Through to Children**

The FY 2017 budget request contains a Child Support and Fatherhood Initiative, (which has been included in prior budgets), that would encourage states to pass through child support payments to TANF families.

The proposal allocates \$1.3 billion over 10 years for this purpose. If all states were to implement the provisions, families would receive an additional \$1.9 billion in child support payments, which the Office of Child Support Enforcement (OCSE) suggests would in turn reduce families' reliance on other government social service programs.

The provisions are as follows:

- States would no longer be required to reimburse the federal government for any part of current child support payments that the state distributes to the family.
- States would be allowed to discontinue assigning child support payments to the state when a family is receiving TANF assistance.
- To encourage states to take up these family distribution options, short-term funding is provided to offset a significant share of state costs for implementing the new policy.
- The proposal requires child support payments made on behalf of children in foster care to be used in the best interest of the child, rather than as general revenue for the state.

For more details, see

[http://www.acf.hhs.gov/sites/default/files/programs/css/february\\_march\\_2016\\_child\\_support\\_report.pdf](http://www.acf.hhs.gov/sites/default/files/programs/css/february_march_2016_child_support_report.pdf).

#### State Child Support Enforcement News

- Parents who are not working or have child support arrears in Noble County, **Indiana** will be issued court-ordered smartphones as part of a new program to track their whereabouts. The program makes use of smartphones from a Louisville-based company that are aimed at monitoring “deadbeat parents.” In addition to unlimited calling, texting, and data services, the phones are equipped to allow company caseworkers to track the user’s locations and use of the phone. The data can then be shared with prosecutors to know whether job applications are being completed, or if parents have unreported jobs or income.
- In **New York**, the Court of Appeals has ruled that nonpayment of court-ordered child support can result in consecutive six-month sentences for repeat violations. State law generally limits New York’s family court to imposing single six-month sentences, but this ruling allows the court to revisit jail sentences that were previously suspended, and to order consecutive sentences, extending the amount of jail time served by the parent. The consecutive sentences are intended to apply to willful nonpayment by parents who can afford to pay, but a valid method for determining ability to pay is not laid out in the ruling.
- An **Ohio** judge has banned a father who is more than \$200,000 behind in child support payments for 11 of his 13 children from fathering more children while on probation. Previous similar orders have been struck down on appeal in the state, but this order was designed so that it would not be overturned, by allowing for the ban to be lifted if the father pays off his child support debt. The father plans to appeal the procreation ban.
- Parents who are behind in child support payments in **North Dakota** are being offered amnesty and the return of their driver’s licenses this month in return for establishing a payment plan. For every \$2 paid, the agency will pay \$1 toward accrued interest or state-owed money (money owed to the state as repayment for

welfare costs). The agency sent letters to all debtors with outstanding warrants telling them about the amnesty. Currently, more than 2,000 people in the state have had their licenses suspended for failing to pay child support, and more than 600 have warrants for their arrest.

- Beginning this December, the state of **Texas** will block vehicle registrations for parents behind in child support payments. Parents who have paid no child support over a six-month period will not be allowed to register their vehicle. The policy did not require legislative approval, and differs from revoking other licenses for nonpayment in that there is no state requirement for an administrative or judicial hearing to determine whether the renewal should be denied. It also applies to renewals for currently owned vehicles, but not registration of a new vehicle.

**Low-Income Defendants Increasingly Unable to Access Legal Representation**

Despite the 1963 Supreme Court decision *Gideon v. Wainwright*, which guarantees defendants the right to counsel regardless of income and

applies to anyone facing the possibility of detention, states are increasingly unable or unwilling to keep up with the demand for public defenders. An article in *the Atlantic* describes mounting caseloads, diminishing budgets, and longer waits in jail for pretrial detainees. The article is focused on Louisiana’s system, which is nearing collapse:

- Public defenders represent more than 85 percent of defendants in criminal courts, many of whom are of color and undereducated. Because this represents a shortage of defenders, pretrial detainees awaiting representation are filling jails, judges are not able to clear dockets, detention costs are rising, and the state is at risk of falling into a constitutional crisis for failure to provide adequate counsel.
- Until recently in New Orleans, public defenders assigned to misdemeanor courts each had upward of 19,000 cases per year, affording them an average of seven minutes for every client. As a result, some detainees end up staying in jail waiting for attorneys for longer than the potential sentences for the crimes they were accused of committing.
- More than three-quarters of Louisiana’s 42 public defenders’ offices are facing potential insolvency. The state’s Public Defender Board, which oversees its district offices, has predicted “systemic failure in the public-defense system” by this summer.
- Almost 70% of Louisiana’s public-defense system budget is funded through court fees, which still leave offices operating at a loss. On top of this, state funding has been slashed. The 2017 budget reduces an already inadequate \$16.5 million appropriation for public defenders by an additional 62 percent. The president of the American Bar Association has described the cut as one “that would require additional service restrictions on a scale unprecedented in the history of American public defense.”

- In January, the American Civil Liberties Union sued the city of New Orleans and the state of Louisiana for “indefinite denial of counsel” and “chronic underfunding of its public-defender system.”

Other states are reported by the author to face similar crises:

- A census of 22 states carried out by the Bureau of Justice Statistics found that, between 1999 and 2007, the number of public defenders increased by 4 percent while their caseload increased by 20 percent.
- In June 2014, Missouri’s General Assembly approved a \$3.47 million funding increase for the Missouri State Public Defender System. But Governor Jay Nixon vetoed the legislation. When the legislature overrode his veto, Nixon used executive authority to withhold the money. The next fiscal year, he *reduced* the budget of the public defender’s office by—exactly—\$3.47 million. He then signed off on \$4 million in State Fairground improvements, \$52 million for a new state park, and \$998 million for a new football stadium.
- In 2015, a class-action lawsuit revealed that Georgia juveniles were regularly denied legal representation before and during court appearances. The Department of Justice filed a “statement of interest” in this case and has done the same on behalf of indigent defendants in three other states over the past two years.
- The ACLU sued Idaho in June of 2015, then California in July, for both states’ systematic failure to provide “meaningful and effective counsel.” They recently settled similar cases in New York, Washington, and Michigan. This year, they have sued Louisiana on the same grounds.

The article is available at <http://www.theatlantic.com/politics/archive/2016/06/on-the-defensive/485165/>

A separate investigation looked at the large and growing number of individuals who do not have legal representation in family court for divorce, custody and child support cases. The Institute for the Advancement of the American Legal System at the University of Denver conducted a qualitative study of self-representation from the litigants’ perspective. *Cases Without Counsel: Research on Experiences of Self-Representation in U.S. Family Court* is based on interviews with 128 individuals who represented themselves in family court in one of four jurisdictions in Oregon, Colorado, Tennessee, and Massachusetts, and with 49 judicial and non-judicial professionals who routinely engage and interact with self-represented litigants in those jurisdictions. The study finds the consistent themes that emerged across jurisdictions in order to assist family courts, lawyers, and communities across the country as they increasingly must serve litigants outside the traditional context of two represented parties.

Consistent themes include:

- Most self-represented litigants in family court want legal assistance, advice, and representation but it is not an option for them due to the cost and other financial



priorities. Almost 60 percent of participants who had a personal annual income of under \$20,000, and about 50% who had income between \$20,000 and \$40,000, specifically raised affordability concerns.

- Free and reduced-cost services are not readily available to many who need assistance, or are not understood to be a potential resource for those who would qualify.
- Self-represented litigants commonly cited difficulty in understanding how to fill out forms, making the point that form availability is important but not sufficient. Judge and court staff participants similarly suggested that forms, paperwork, and other court documents were a substantial source of frustration for self-represented litigants.
- A substantial portion of self-represented participants discussed feeling at a disadvantage and experiencing bias in the court process resulting from being without representation. Feedback from court staff and judges aligned with this perception.
- Self-represented participants who had an unfavorable experience and described feeling intimidated, isolated, scared, hopeless, and vulnerable.

The report is available at

[http://iaals.du.edu/sites/default/files/documents/publications/cases\\_without\\_counsel\\_research\\_report.pdf](http://iaals.du.edu/sites/default/files/documents/publications/cases_without_counsel_research_report.pdf).

**Manufacturing Industry Relies on Public Safety Net Programs to Support Families Representation**

A report from the UC Berkeley Center for Labor Research and Education, *Producing Poverty: The Public Cost of Low-Wage Production Jobs in Manufacturing* (May 2016), examines

state and federal expenditures on safety net programs for workers in low-wage manufacturing jobs. The report is part of a series on the reliance on safety net programs by low-wage industries. Participation rates and costs were estimated for five key means-tested public benefit programs: Medicaid, Children’s Health Insurance Program (CHIP), the Federal Earned Income Tax Credit (EITC), food stamps (the Supplemental Nutrition Assistance Program, or SNAP), and basic household income assistance (Temporary Assistance for Needy Families, or TANF). Key findings (all related to front-line, low-wage manufacturing workers) include:

- More than a third of the workers and their families are enrolled in one or more public safety net programs.
- Between 1989 and 2014, the percentage of workers employed through employment services agencies rose from 1 to 9 percent. These workers earned, on average, \$12.05 per hour, compared to \$16.56 per hour for directly hired workers. Fifty percent of workers hired through staffing or temporary agencies utilized

public safety net programs—similar to the rate for fast-food workers and their families.

- More than 2 million workers and their families are enrolled in public safety net programs, for a total cost to federal and state governments across the programs of \$10.2 billion a year. More than 25% of the workers were enrolled in the EITC program.
- Eight of the ten states with the highest participation rates in public safety net programs for workers’ families are in southern states; the other two states are New York and California.

The authors point out that states and the federal government provide significant subsidies to attract and retain manufacturing businesses, but often without wage requirements. They recommend that subsidies be conditioned on strong wage requirements across the workforce.

The report is available at <http://laborcenter.berkeley.edu/pdf/2016/Producing-Poverty.pdf>

**Work Rate for Bottom Third of Earners Drops, Top Two-Thirds Improves, Increasing Work Gap**

A recent report from the Brookings Institute looks at the connection to the labor market among the poorest one-third of families in the United States. The report focuses on families with an able-bodied head of household

between the ages of 25 and 54, considering these struggling families. The report analyzes data from the 2015 Current Population Survey of the U.S. Census Bureau and runs policy simulations using a labor market model. Key findings include:

- Compared to those living in the top two-thirds, low-income, working-age Americans are more likely to be Black or Hispanic, less likely to have a college degree, and less likely to be married.
- Since 1980, lower-income men’s work rates have declined by 11 percent, and for lower-income women, work rates have remained flat. Men and women in the top and middle of the income distribution, however, have been working at the same or a greater rate since 1980, creating a growing “work gap” in labor market income. For both men and women, those in the bottom third are no longer as attached to jobs as they were in the past.
- Families in the bottom third of income tend to have lower hourly wages than those in the top two-thirds and to work significantly fewer hours than families in the top. An expanded EITC or a higher minimum wage could provide significant help to the bottom third.
- Almost a fifth of bottom-third household heads are not working at all, and less than half are working full time. The proportion of working-age men not attached to the labor market has gone from about 7 percent in 1970 to about 16 percent now.



- A quarter of all the men said they would take a minimum wage job, but 44 percent said there were local jobs they would not take; a third of all the men said they had health problems or a disability, and 34 percent, including the disabled, had criminal records.
- The policy simulation found that increasing the minimum wage to \$10.10 could increase earnings from \$12,415 to \$13,610, or by 10 percent.

The report, *One Third of a Nation: Strategies for Helping Working Families*, is available at: <http://www.brookings.edu/~media/research/files/papers/2016/05/31-one-third-of-a-nation-strategies-for-working-families-sawhill/one-third-of-a-nation.pdf>

### Of Note

- Proposed legislation in the state of New York would allow check cashers to make small business and commercial loans to customers without the need to ensure that the loans are sound or that the borrower has the ability to repay the loan. The check cashing industry has lobbied the state for years to make such high-cost loans in the state. The bill would enable high-cost, predatory loans that are currently prohibited in New York. The impact would likely be felt most by low-income and immigrant residents and communities of color that are most targeted for these loans. To date, the bill has been approved by committees in the Senate and Assembly. It could also allow check cashers to evade usury caps by connecting with banks in other states that have different laws.
- While new Census Bureau figures reveal that the gender pay gap remains roughly unchanged, with women earning 78 percent of what men make, an even wider gap exists by race. Native Hawaiian and Pacific Islander women made 65 percent of what white men made in 2013, African-American women made 64 percent, American Indian and Alaska Native women made 59 percent, and Hispanic women made just 54 percent. Asian-American women are the only group doing better than white women, making 90 percent of white men's earnings.
- The Office of Child Support Enforcement is inviting eligible state IV-D (child support enforcement) programs to apply for grants under its "Procedural Justice Informed Alternatives to Contempt" (PJAC) demonstration program. Grants will be awarded for the development and implementation of programs that offer an alternative to contempt by incorporating procedural justice principles into child support business practices as part of a national demonstration framework. For more information, see [https://ami.grantsolutions.gov/files/HHS-2016-ACF-OCSE-FD-1172\\_1.htm#c.d.section.III1076](https://ami.grantsolutions.gov/files/HHS-2016-ACF-OCSE-FD-1172_1.htm#c.d.section.III1076)

**Mission Statement:** The mission of the **CENTER FOR FAMILY POLICY AND PRACTICE (CFFPP)** is to strengthen society through the expansion of opportunities for low-income parents – mothers and fathers – to protect and support their children. CFFPP operates as a policy think tank to remove the unique barriers and negative public perceptions that affect low-income men of color. Through technical assistance, policy research and analysis, and public education and outreach, CFFPP works to support low-income families and develop public awareness of their needs.

*This Policy Briefing publication is made possible, in part, through the generous support of the W.K. Kellogg Foundation, the Ford Foundation, and through CFFPP's membership in Community Shares of Wisconsin. Any opinions, errors or conclusions expressed herein do not necessarily represent the views or positions of CFFPP's funders.*